

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Jamon Lenell Brown,)	
)	
Petitioner,)	
)	
v.)	1:06CV00520
)	
Mr. G. Haynes,)	
)	
Respondent.)	

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Petitioner, a prisoner of the State of North Carolina, has submitted a petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody. The Clerk of Court received the submission on June 8, 2006. For the following reasons, the petition cannot be further processed.

1. Filing fee was not received or affidavit to proceed in forma pauperis was not submitted or signed by the petitioner. [Attached instructions and Rule 3(a), Rules Governing § 2254 Cases.] Petitioner is advised that the court does not combine his previous filings with this filing. Each submission must stand on its own.
2. Petitioner did not complete the forms: A petitioner is required to specify his grounds for relief and set out the facts which the petitioner claims support each ground. See Rules Governing Section 2254 Cases 2(c). The Court will not search for facts in briefs or other documents. The facts must be set out in paragraph 12 of the Section 2254 forms. Id. Petitioner states "see M.A.R. for full review" on his motion form and this is not acceptable.

Because of these pleading failures, this particular petition should be filed and then dismissed, without prejudice to petitioner filing a new petition on the proper habeas corpus forms with the \$5.00 filing fee, or a completed application to proceed in forma pauperis, and otherwise correcting the defects noted. The Court has no authority to toll the statute of limitation, therefore it continues to run, and petitioner must act quickly if he wishes to pursue this petition. See Spencer v. Sutton, 239 F.3d 626 (4th Cir. 2001). To further aid petitioner, the Clerk is instructed to send petitioner a new application to proceed in forma pauperis, and new § 2254 forms.

In forma pauperis status will be granted for the sole purpose of entering this order of dismissal with permission to file a new petition which corrects the defects of the present petition.

IT IS THEREFORE ORDERED that in forma pauperis status is granted for the sole purpose of entering this order. The Clerk is instructed to send petitioner Section 2254 forms, instructions, and a current application to proceed in forma pauperis.

IT IS RECOMMENDED that this action be filed, but then dismissed sua sponte without prejudice to petitioner filing a new petition which corrects the defects of the current petition.

/s/ P. Trevor Sharp
United States Magistrate Judge

Date: June 19, 2006